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TAGS: [KTIP](#) [ELAB](#) [KCRM](#) [KPAO](#) [KWMN](#) [PGOV](#) [PHUM](#) [PREL](#) [SMIG](#) [HK](#)
SUBJECT: HONG KONG -- 2009 TIP REPORT: PRESS GUIDANCE AND
DEMARCHE

REF: A. (A) STATE 59732
[1](#)B. (B) STATE 005577

[1](#)1. This is an action cable; see paras 5 through 7 and 10.

[1](#)2. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

[1](#)3. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of Hong Kong of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of Hong Kong and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and OOB local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not/precede the Secretary's release at 10:00 am EDT on June 16.

[1](#)4. The entire TIP Report will be available on-line at www.state.gov/g/tip shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

[1](#)5. Action Request: No earlier than 12 noon local time on Monday June 15 for WHA, AF, EUR, and NEA posts and OOB local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of Hong Kong of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 8. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

[1](#)6. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the narrative text. This engagement is important to establishing

the framework in which the government's performance will be judged for the 2010 Report. If posts have questions about which governments will receive an action plan, or how they may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

¶7. Action Request continued: On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

¶8. Begin Final Text of Hong Kong,s narrative in the 2009 TIP Report:

HONG KONG (TIER 2)

The Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China is a destination and transit territory for men and women from mainland China, Thailand, the Philippines, Indonesia, and elsewhere in Southeast Asia trafficked for the purposes of forced labor and commercial sexual exploitation. Hong Kong is primarily a transit point for illegal migrants, some of whom are subject to conditions of debt bondage, forced commercial sexual exploitation, and forced labor. Hong Kong is also a destination for women from the Chinese mainland and Southeast Asia who travel to Hong Kong voluntarily for legal employment in restaurants, bars, and hotels, but upon arrival are coerced into prostitution under conditions of debt bondage. Some of the women in Hong Kong,s commercial sex trade are believed to be trafficking victims. Some were lured by criminal syndicates or acquaintances with promises of financial rewards, and deceived about the nature of their future jobs, but faced conditions of debt bondage and had their passports and travel documents confiscated upon their arrival in Hong Kong.

Some foreign domestic workers in the territory, particularly those from Indonesia and the Philippines, face high levels of indebtedness assumed as part of the terms of employment, which can in some cases lead to situations of debt bondage if unlawfully exploited by recruiters or employers. Many Indonesian domestic workers earning the minimum wage or less enter into contracts requiring them to pay their Indonesian recruitment agency as much as \$2,700 within their first seven months of employment, amounting to roughly 90 percent of a worker's monthly salary if they are making minimum wage; though these fees are lawful, reports indicate they may make some workers more vulnerable to labor trafficking. While these fees are imposed by Indonesia-based recruitment agencies, some Hong Kong-licensed recruitment agencies reportedly are involved. Some Hong Kong agencies reportedly confiscate passports, employment contracts, and ATM cards of domestic workers upon arrival and withhold them until the debt has been completely repaid; factors which also may facilitate labor trafficking. Additionally, the confiscation of passports by some Hong Kong employment agencies restricts the ability of migrant workers to leave their employer in cases of abuse, and places them under further control of their employment agency, leaving them vulnerable to trafficking. Some Indonesian domestic workers are confined to the residence and not given the opportunity to leave for non-work-related reasons, preventing them from complaining about possible exploitation to authorities.

The Government of Hong Kong does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government makes efforts to prevent trafficking among domestic workers and inform them of their rights. However, during the reporting period, Hong Kong authorities did not investigate, prosecute, or convict any trafficking offenders as defined in U.S. law, nor did it identify any trafficking victims.

Recommendations for Hong Kong: Increase efforts to investigate, prosecute, and convict traffickers, including any cases involving the involuntary servitude of Indonesian domestic workers; enforce existing Hong Kong laws on holding travel documents and other identification as collateral on debts; create and implement formal procedures to proactively identify trafficking victims among vulnerable groups, such as women and girls in the commercial sex industry and persons arrested for immigration violations; and conduct a public awareness campaign aimed at reducing demand for commercial sex acts.

Prosecution

The Government of Hong Kong did not make progress in its anti-trafficking law enforcement efforts during the reporting period. Hong Kong does not have specific anti-trafficking laws, but its Immigration Ordinance, Crimes Ordinance, and other relevant laws adequately prohibit trafficking offenses.

Labor trafficking is criminalized through the Employment Ordinance. Penalties for trafficking for commercial sexual exploitation are commensurate with those for rape, and penalties for all forms of trafficking are sufficiently stringent. While Hong Kong authorities pursued charges against a criminal syndicate that sent women abroad for prostitution, authorities did not investigate, prosecute, or convict any trafficking offenders as defined in U.S. law during the reporting period; the case against the syndicate lacked the necessary element of force, fraud, or coercion. Hong Kong police reportedly assisted some foreign domestic workers in retrieving their passports from recruitment agencies. There were no reports of trafficking complicity by Hong Kong officials during the reporting period.

Protection

The Hong Kong government did not demonstrate sufficient tangible progress in protecting and assisting trafficking victims during the reporting period. The government did not identify any victims of trafficking in 2008. One foreign consulate reported identifying seven trafficking victims during the reporting period who were recruited to work as waitresses in Hong Kong, but were subsequently forced into prostitution. When victims are identified by the government, they are provided with government-sponsored assistance including shelter, financial and legal assistance, counseling, and psychological support. Authorities encourage victim participation in the investigation of traffickers, although in practice many are reluctant to do so because of the likelihood of a long trial with no ability to work or earn money. The Hong Kong government does not ensure that victims are not penalized for unlawful acts committed as a direct result of their being trafficked. Authorities grant immunity to female victims who agree to act as a witness for the prosecution. Hong Kong law requires the deportation of foreign trafficking victims, and does not automatically provide foreign victims of trafficking with legal alternatives to their removal to a country where they may face hardship or retribution. Victims can lodge an appeal, and the Department of Justice will make a final decision on a case-by-case basis, though this has never been done in the case of a trafficking victim. Hong Kong authorities can refer victims of trafficking to existing social service programs at government-subsidized NGO shelters or Social Welfare Department shelters.

Prevention

Hong Kong continued to demonstrate efforts to prevent trafficking in persons during the reporting period. The government continued to fund a local NGO to meet and provide information kits to incoming foreign domestic workers and potential sex trafficking victims who arrive from Indonesia and Philippines. To prevent trafficking among foreign domestic workers, the Labor Department continued to publish "guidebooks" in several languages that explain workers' rights, the role of employment agencies, and services provided by the government. Although these guidebooks are

distributed to foreign domestic workers upon arrival at Hong Kong International Airport, a labor NGO reported that the guidebooks were sometimes taken away by Hong Kong employment agencies shortly after workers received them. Information kiosks and exhibitions were set up at locations frequented by foreign domestic workers, and advertisements about rights guaranteed by the Employment Ordinance were placed in local newspapers. The Hong Kong government did not take any measures to reduce the demand for commercial sex acts during the reporting period.

¶9. Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that this is a crime in which the victims, labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1) or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 3. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver

of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance) with respect to countries on Tier 3. Countries classified as Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of the global financial crisis, highlights high levels of trafficking for forced labor in many parts of the world and systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers, home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries, "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers, profits are estimated at \$31 billion. The current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion."

-- The text of the TVPA and amendments can be found on website www.state.gov/g/tip.

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

(end non-paper)

¶10. Posts should make sure that the relevant country narrative is readily available on or through the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

¶11. The following is press guidance provided for Post to use with local media.

Q1: Why was Hong Kong downgraded to Tier 2 in the 2009 TIP Report?

A: The Government of Hong Kong does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government makes efforts to prevent trafficking among domestic workers and inform them of their rights. However, during the reporting period, Hong Kong authorities did not investigate, prosecute, or convict any trafficking offenders as defined in U.S. law, nor did it identify any trafficking

victims. While Hong Kong authorities pursued charges against a criminal syndicate that sent women abroad for prostitution, authorities did not investigate, prosecute, or convict any trafficking offenders as defined in U.S. law during the reporting period; the case against the syndicate lacked the necessary element of force, fraud, or coercion.

Q2: What progress has Hong Kong made in the past year?

A: Hong Kong continued to demonstrate efforts to prevent trafficking in persons during the reporting period. The government continued to fund a local NGO to meet and provide information kits to incoming foreign domestic workers and potential sex trafficking victims who arrive from Indonesia and Philippines. To prevent trafficking among foreign domestic workers, the Labor Department continued to publish "guidebooks" in several languages that explain workers' rights, the role of employment agencies, and services provided by the government.

Q3: What efforts could Hong Kong make to improve its fight against trafficking in persons?

A: The Government of Hong Kong could: increase efforts to investigate, prosecute, and convict traffickers, including any cases involving the involuntary servitude of Indonesian domestic workers; enforce existing Hong Kong laws on holding travel documents and other identification as collateral on debts; create and implement formal procedures to proactively identify trafficking victims among vulnerable groups, such as women and girls in the commercial sex industry and persons arrested for immigration violations; and conduct a public awareness campaign aimed at reducing demand for commercial sex acts.

¶12. The Department appreciates posts, assistance with the preceding action requests.
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